

JUN 26 2015

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE JESUS REYES-GALLAGA  
VARGAS, a.k.a. Victor Vargas-Chavez,

Defendant - Appellant.

No. 13-10649

D.C. No. 2:11-cr-00459-KJM-1

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Kimberly J. Mueller, District Judge, Presiding

Submitted June 22, 2015\*\*

Before: HAWKINS, GRABER, and W. FLETCHER, Circuit Judges.

Jose Jesus Reyes-Gallaga Vargas appeals the district court's judgment and challenges the 120-month sentence imposed after he pleaded guilty to possession with the intent to distribute methamphetamine, in violation of 21 U.S.C.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 841(a)(1), and dealing firearms without a license in violation of 18 U.S.C. § 922(a)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Vargas argues that the district court improperly increased his base offense level by two points for possession of a dangerous weapon under U.S.S.G. § 2D1.1(b)(1). We disagree. “In applying this enhancement, ‘the court need not find a connection between the firearm and the offense. If it finds that the defendant possessed the weapon during the commission of the offense, the enhancement is appropriate.’” *United States v. Lopez-Sandoval*, 146 F.3d 712, 714 (9th Cir. 1998) (quoting *United States v. Restrepo*, 884 F.2d 1294, 1296 (9th Cir. 1989)). Vargas admitted to possessing the firearms during the firearm/drug sales. Even if the firearms were for sale, and not protection, Vargas still had access to them, and he could have put them to nefarious ends had he wished. *See United States v. Heldberg*, 907 F.2d 91, 94 (9th Cir. 1990).

**AFFIRMED.**